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June 27, 2012

David S. Turetsky
Chief, Public Safety and Homeland Security Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Etan Industries, Inc., Clark Cablevision, Inc., Southwest Cablevision, Inc., (collectively, "CMA Communications"); Request for Temporary Waiver of 47 C.F.R. § 11.56; EB Docket No. 04-296

Dear Mr. Turetsky:

On behalf of CMA Communications, pursuant to 47 C.F.R. § 11.52(d)(4), we submit this request for a waiver of the Common Alerting Protocol ("CAP") compliance deadline in 47 C.F.R. § 11.56(a). CMA Communications requests a six-month waiver for nine small cable systems (the "Systems").

These Systems lack physical access to broadband Internet service. Accordingly, CMA Communications is entitled to a presumption in favor of a waiver.¹

In addition, because CMA Communications does not expect the circumstances to change at the expiration of the waiver's initial six-month period, CMA Communications requests that the Commission grant the waiver request for an additional six-month term. CMA Communications will monitor the marketplace for the availability of broadband Internet service at the Systems, and will come into full compliance when it becomes available.²

We organize this request as follows:

- CMA Communications and system background
- Justification and authority supporting the waiver request
- Availability of EAS information if waiver request is granted
- Conclusion and requested relief

We also attach the declaration of Mark Reaves, CMA Communications' Vice President, System Operations, as Exhibit A.

¹ *In the Matter of Review of the Emergency Alert System*, Fifth Report and Order, 27 FCC Rcd 642, ¶ 152 (rel. Jan. 10, 2012) ("*EAS Fifth Report and Order*").

² See Declaration of Mark Reaves, attached as *Exhibit A* ("*Reaves Declaration*").

I. CMA Communications and system background

A. The company

CMA Communications is the business name for Broadband Cablevision, Inc., Clark Cablevision, Inc., Etan Industries, Inc., Southwest Cablevision, Inc., and West Texas Cablevision, Inc.. CMA Communications operates 35 cable systems in Texas, Louisiana, Mississippi, and Nevada, with its principal office in Dallas, Texas. Most of these systems serve small, rural communities. Altogether, the 35 systems currently serve about 33,000 basic subscribers, with 20 systems each serving fewer than 1,000 subscribers. This includes the Systems, as detailed below.

CMA Communications planned to shut down the Systems. However, CMA has now decided to continue to operate the systems, with standard EAS equipment installed, provided that the Commission grants this waiver. While preparing for the EAS CAP compliance deadline, CMA Communications determined that the Systems listed below do not have access to the broadband Internet connectivity necessary for each headend to receive CAP-formatted emergency alert messages.³ CMA Communications' other 21 systems are CAP-complaint.⁴

B. The systems

Name of System	CMA Entity	PSID	CUIDs	Subscribers
Arcola, MS	Etan Industries, Inc.	015584	MS0357, MS0358	52
Anguilla, MS	Clark Cablevision, Inc.	015583	MS0355, MS0356	102
Hempstead, TX	Etan Industries, Inc.	006696	TX0791	149
Blackwell, TX	Etan Industries, Inc.	014876	TX1639, TX1640	41
Roscoe, TX	Etan Industries, Inc.	007796	TX0214	89
Tuscola, TX	Etan Industries, Inc.	008958	TX1211, TX1212	76
Calhoun, LA	Southwest Cablevision, Inc.	008567	LA0321	114
Wisner, LA	Southwest Cablevision, Inc.	008752	LA0259, LA0260	132
Grape Creek, TX	Etan Industries, Inc.	011863	TX1269, TX1270	86
Columbia, LA	Southwest Cablevision, Inc.	008751	LA0228	295
Logansport, LA	Etan Industries, Inc.	012494	LA0482	202
Hollandale, MS	Etan Industries, Inc.	000237	MS0100	504
Merkel, TX	Etan Industries, Inc.	007786	TX0235	258
Bronte, TX	Etan Industries, Inc.	004909	TX0639, TX 0638	237

II. Justification and authority supporting the waivers

A. Requested waivers and justification

CMA Communications requests a six-month waiver of the CAP-compliance deadline in 47 C.F.R. § 11.56(a). CMA Communications seeks this waiver because the Systems lack physical access to broadband Internet service, necessary for the Systems to receive CAP-formatted

³ *Reaves Declaration*, ¶ 2.

⁴ *Id.*, ¶ 5.

emergency alert messages. CMA Communications further requests an additional six-month waiver.⁵ CMA Communications seeks this additional six-month waiver because it does not expect circumstances to change, especially since the Systems are remote and unlikely to obtain broadband Internet access in the foreseeable future.

B. Commission authority supporting the waivers

In the *EAS Fifth Report and Order*, the Commission held that “the physical unavailability of broadband Internet service offers a presumption in favor of a waiver.”⁶ The Commission created this presumption in an effort to avoid EAS Participants having to purchase CAP-compliant equipment that could not be utilized due to lack of access to CAP-formatted alerts transmitted over the Internet.⁷ CMA Communications is entitled to this presumption in favor of a waiver established because broadband Internet services are physically unavailable at the Systems’ headends.⁸

Moreover, the Commission may waive its rules for good cause shown.⁹ Here, grant of the waiver will serve the public interest. Requiring CMA Communications to purchase and install CAP-compliant equipment that it cannot use would be economically wasteful. In the *EAS Fifth Report and Order*, the Commission acknowledged that there are costs associated with upgrading and installing the equipment necessary for CAP compliance and crafted its rules to avoid, where possible, any unnecessary and unjustified costs associated with CAP compliance.¹⁰ The Commission has also granted waivers of EAS rules in other circumstances where strict compliance with EAS rules would lead to similar economic waste.¹¹ Granting CMA Communications waiver request is consistent with these Commission precedents, which were aimed at avoiding unnecessary and unjustified costs associated with compliance with the EAS rules.

⁵ *EAS Fifth Report and Order*, ¶ 152 (“[W]e believe that any waiver based on the physical unavailability of broadband Internet access likely would not exceed six months, with the option of renewal if circumstances have not changed.”).

⁶ *Id.* (“Because it is important that any of our regulatory requirements, particularly where costs are involved, provide the benefits for which they are designed, we do not believe that it would be appropriate to require EAS Participants to purchase and install equipment that they could not use. Accordingly, we conclude that the physical unavailability of broadband Internet service offers a presumption in favor of a waiver.”).

⁷ *Id.*

⁸ See *Reaves Declaration*, ¶ 2.

⁹ 47 C.F.R. § 1.3. See also *Northeast Cellular Telephone Co., L.P. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (“FCC has authority to waive its rules if there is ‘good cause’ to do so.”); See *WAIT Radio v. FCC*, 4 18 F.2d 1153, 1159 (D.C. Cir. 1969), *aff’d*, 459 F.2d 1203 (D.C. Cir. 1972), *cert. denied*, 409 U.S. 1027 (1972) (The Commission may exercise its waiver authority where grant of the waiver does not undermine the policy served by the rule, and where particular facts make strict compliance inconsistent with the public interest.).

¹⁰ *EAS Fifth Report and Order*, ¶ 72 (allowing the use of intermediary devices because “imposition of the costs associated with the purchase of replacement EAS equipment is unnecessary and unjustified”).

¹¹ In the *Matter of Mediacom Communications Corporation; Operator of Cable Systems in the States of: Alabama, Florida, Georgia, Illinois, Iowa, Kansas, Kentucky, Minnesota, Mississippi, Missouri and Wisconsin; Request for Waiver of Section 11.11(a) of the Commission’s Rules*, File No. EB-02-TS-617, 18 FCC Rcd 7656, ¶¶ 3-4 (rel. April 21, 2003) (granting a 12-month waiver of the October 1, 2002 EAS implementation deadline because requiring strict compliance would result in economic waste).

III. Availability of EAS information if waiver request is granted

CMA Communications will operate legacy EAS equipment in the Systems, and will monitor the marketplace for the availability of broadband Internet service at the Systems.¹² CMA Communications' cable systems not subject to this waiver request will be fully compliant with the EAS CAP requirements set forth in the *EAS Fifth Report and Order* by June 30, 2012.¹³

IV. Conclusion and requested relief

As set forth above, CMA Communications requests a waiver of the CAP-compliance deadline in 47 C.F.R. § 11.56(a) because the Systems lack physical access to broadband Internet service. Moreover, because CMA Communications does not expect the circumstances to change after six months, CMA Communications requests that the Commission grant the waiver for 12 months. For these reasons, CMA Communications requests that the Commission waive its CAP-compliance deadline as described above.

Sincerely,



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June 27, 2012

¹² *Reaves Declaration*, ¶ 4.

¹³ *Id.*, ¶ 5.

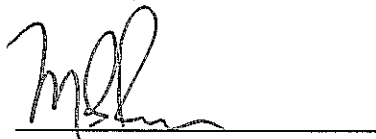
EXHIBIT A

DECLARATION OF MARK REAVES

1. My name is Mark Reaves and I am Vice President, System Operations for CMA Communications.
2. CMA Communications does not have access to the broadband Internet connectivity necessary for it to receive CAP-formatted emergency alert messages for the following systems:

Name of System	CMA Entity	PSID	CUIDs	Subscribers
Arcola, MS	Broadband Cablevision, Inc.	015584	MS0357, MS0358	52
Anguilla, MS	Clark Cablevision, Inc.	015583	MS0355, MS0356	102
Hempstead, TX	Etan Industries, Inc.	006696	TX0791	149
Blackwell, TX	Etan Industries, Inc.	014876	TX1639, TX1640	41
Roscoe, TX	Etan Industries, Inc.	007796	TX0214	89
Tuscola, TX	Etan Industries, Inc.	008958	TX1211, TX1212	76
Calhoun, LA	Southwest Cablevision, Inc.	008567	LA0321	114
Wisner, LA	Southwest Cablevision, Inc.	008752	LA0259, LA0260	132
Grape Creek, TX	West Texas Cablevision, Inc.	011863	TX1269, TX1270	86
Columbia, LA	Southwest Cablevision, Inc.	008751	LA0228	295
Logansport, LA	Etan Industries, Inc.	012494	LA0482	202
Hollandale, MS	Etan Industries, Inc.	000237	MS0100	504
Merkel, TX	Etan Industries, Inc.	007786	TX0235	258
Bronte, TX	Etan Industries, Inc.	004909	TX0639, TX 0638	237

3. CMA Communications originally scheduled the systems for shut-down. Provided that the Commission grants this waiver, CMA Communications will operate legacy EAS equipment in the Systems.
4. CMA Communications will monitor the marketplace for the availability of broadband Internet service at the Systems' headends and will come into full compliance when it becomes available.
5. CMA Communications 21 other cable systems not subject to this waiver request will be CAP-compliant by June 30, 2012.
6. I have read the foregoing "Request for Temporary Waiver of 47 C.F.R. § 11.56" (the "Waiver Request") and I am familiar with its contents.
7. I declare under penalty of perjury that the facts contained herein and within the foregoing Waiver Request are true and correct to the best of my knowledge, information, and belief formed after reasonable inquiry, that the Waiver Request is well grounded in fact, that it is warranted by existing law or a good-faith argument for the extension, modification or reversal of existing law, and that it is not interposed for any improper purpose.



Mark Reaves
Vice President, System Operations
CMA Communications

June 26, 2012.